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**EPA Turns the Lights on Mountaintop Removal**

Jeff Biggers | September 11, 2009

The Environmental Protection Agency made good on its promise today to assert greater scrutiny and "use the best science andfollow the letter of the law" with regard to controversial mountaintop removal mining permits in the Appalachian coalﬁelds. In ahighly anticipated announcement, the agency declared that all seventy-nine pending permits in four states would "likely causewater quality impacts" and sent them on for additional review under the Clean Water Act.

Does today's big announcement end the practice of mountaintop removal--which has clear-cut more than 1.2 million acres ofdeciduous forests, employed billions of pounds of ammonium nitrate/fuel oil explosives to blow up 500 mountains, packed andsullied an estimated 2,000 miles of streams with mining waste, and left coalﬁeld communities in economic ruin?

The short answer from the EPA: no.

But while the agency has gone out of its way to make clear that this announcement does not "constitute a change" in policy orusurp the Army Corps of Engineers's authority over such permits, today's news comes as a telling harbinger that the rule of science,law and interagency cooperation just might be returning to the Appalachian coalﬁelds.

"The administration pledged earlier this year to improve review of mining projects that risked harming water quality," EPAadministrator Lisa Jackson announced in a statement. "Release of this preliminary list is the ﬁrst step in a process to assure that theenvironmental concerns raised by the seventy-nine permit applications are addressed and that permits issued are protective of waterquality and affected ecosystems."

According to the EPA, this preliminary list of projects will be evaluated over the next 15 days, at which time "issues of concernregarding particular permit applications will be addressed during a 60-day review process triggered when the Corps informs EPAthat a particular permit is ready for discussion."

For many in Appalachia, the announcement is a watershed of sorts, a strong signal that the Obama administration intends toconsider scientiﬁc data in its decision-making rather than simply to succumb to century-old pressure by the Big Coal lobby andentrenched coalﬁeld politicians. It is also, as Stephanie Pistello, national ﬁeld director of Appalachian Voices and legislativeassociate at the Alliance for Appalachia, points out, "a testament to the spadework of coalﬁeld residents" who have struggled todocument and protest the Clean Water Act violations that have done such harm to their communities. "By coming to Washington,DC, to meet with EPA ofﬁcials, among others, affected coalﬁeld residents have played an important role in bringing the truth out ofthe darkness of Big Coal public relations," she said.

Pistello added, "We applaud the new leadership at the Army Corps of Engineers, assistant secretary Jo-Ellen Darcy and principaldeputy assistant secretary Terrence 'Rock' Salt, for working with EPA and bringing a community and environmental focus to their work."

The news came as a bit of a surprise to some coalﬁeld activists. "Since January we've been skeptical about how serious the newadministration would be about addressing mountaintop removal," said Teri Blanton of Kentuckians for the Commonwealth, acitizens' organization in the state where more than half of the designated permits are located. "It looks like EPA is prepared to doeverything it can, within the existing regulatory framework, to protect the mountains and people of Appalachia. This is great news,but it will take more than regulations to end the destruction. Mountaintop removal and valley ﬁlls should be banned."

Many activists welcomed the announcement but, like Blanton, pledged to keep pushing legislators until the practice is abolished.Judy Bonds, co-director of Coal River Mountain Watch, said, "We will continue our ﬁght for a total, complete reprieve for ourchildren and for our beloved mountains and streams."

Thankfully, long-stalled efforts to consider the issue in Congress are moving forward. On June 22, at the ﬁrst US Senate hearing onmountaintop removal in a generation, University of Maryland scientist Dr. Margaret Palmer concluded, "The impacts ofmountaintop removal with valley ﬁlls are immense and irreversible, and there are no scientiﬁcally credible plans for mitigating

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these impacts."

A blockbuster internal memo that same month by West Virginia Department of Environmental Protection biologist Doug Woodconcurred: "We now have clear evidence that in some streams that drain mountaintop coal quarry valley ﬁlls, the entire orderEphemeroptera (mayﬂies) has been extirpated, not just certain genera of this order." Wood added, "The loss of an order of insectsfrom a stream is taxonomically equivalent to the loss of all primates (including humans) from a given area. The loss of two insectorders is taxonomically equivalent to killing all primates and all rodents through toxic chemicals."

More than 150 members of the House of Representatives have signed on as co-sponsors of the Clean Water Protection Act, aproposed bill that would end the creation of valley ﬁlls and polluted waterways from mine waste, and effectively end mountaintopremoval. "I fully support EPA's decision to halt these permits and applaud the agency for recognizing the importance of protectingclean water. Clean and healthy water is a requirement for healthy people, especially growing children. Congress should followthrough on this momentum and pass the Clean Water Protection Act to completely shut down the devastating practice ofmountaintop removal and to preserve clean water," said New Jersey Democrat Frank Pallone Jr., who introduced the bill.

Eight years ago this week, US District Judge Charles Haden II issued a stunning ruling on the Ofﬁce of Surface Mining's oversighton mining reclamation projects in West Virginia. Beyond the standing violations of "unreclaimed strip-mined land, untreatedpolluted water, and millions (potentially billions) of dollars of state liabilities," Haden wrote about his concern of a "a climate oflawlessness, which creates a pervasive impression that continued disregard for federal law and statutory requirements goesunpunished, or possibly unnoticed."

For coalﬁeld residents, today will be held up as a critical step by the Obama administration to end that climate of lawlessness.

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